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PUNJAB VIDHAN SABHA SECRETARIAT

NOTIFICATION

The 11th November, 2021

No. 42-PLA-2021/76.-The Punjab Energy Security, Reform, Termination And Re-Determination of Power Tariff Bill, 2021 is hereby published for general information under the proviso to rule 121 of the Rules of Procedure and Conduct of Business in the Punjab Vidhan Sabha (Punjab Legislative Assembly):-

Bill No.42-PLA-2021

THE PUNJAB ENERGY SECURITY, REFORM, TERMINATION AND RE-DETERMINATION OF POWER TARIFF BILL, 2021

A

BILL

to provide for energy security, reform and remedial measures for sustained development of electricity sector in the State, considering the present status of electricity industry in the State, the long term Power Purchase Agreements (PPAs) between the Punjab Corporation and the coal based thermal Independent Power Producers (IPPs) namely M/s Nabha Power

(4111)

Limited and M/s Talwandi Sabo Power Limited located within Punjab, the crisis in fuel availability and the higher fuel cost pass through claimed in the consumer tariff because of lopsided terms provided in the Agreements, the high tariff claims of the Power Generators beyond the optimum and affordable level, adversely affecting the public interest and adverse consequent implications to the consumers in the State and for the matters connected therewith or incidental thereto.

Whereas, the State Government has reviewed the status of the electricity generation, procurement, transmission, trading, power exchange dealings, distribution, retail supply, cost to the consumers in the State and sustained availability of electricity in the State at the optimum and affordable level for use by the consumers;

Whereas, the State Government has examined the cumulative effect of the nature of arrangement for procurement of electricity made in the past, the policies of the Central Government and State Government, the nature and implications of the long term power procurement arrangements and Agreements entered into based on such policies, the adverse financial conditions and future exposures to the Punjab Corporation, the consequences leading to unsustainable and ever increasing and cascading burden on the Punjab State Power Corporation Limited, the State Utility and the sole distribution licensee at present in the State to maintain electricity distribution and supply to the public at large in the State;

Whereas, the State Government considers it imminent to take measures forthwith to remedy any adverse situation in which the Punjab Corporation, the State Government and the consumers in the State are placed;

Whereas, the State Government considers it to be expedient to enact a law in public interest for the purpose and to provide for measures to achieve the sustained development of the electricity industry in the State, to provide electricity to the consumer at large at an affordable price;

Whereas, section 63 of the Electricity Act, 2003 provides as under:-

"63. Determination of tariff by bidding process.-

Notwithstanding anything contained in section 62, the Appropriate Commission shall adopt the tariff if such tariff has been determined through transparent process of bidding in

accordance with the guidelines issued by the Central Government."

And whereas, section 86 of the Electricity Act, 2003 provides as under:-

" 86. Functions of State Commission.- (1) The State Commission shall discharge the following functions, namely:-

- (a) determine the tariff for generation, supply, transmission and wheeling of electricity, wholesale, bulk or retail, as the case may be, within the State:

Provided that where open access has been permitted to a category of consumers under section 42, the State Commission shall determine only the wheeling charges and surcharge thereon, if any, for the said category of consumers;

- (b) regulate electricity purchase and procurement process of distribution licensees including the price at which electricity shall be procured from the generating companies or licensees or from other sources through agreements for purchase of power for distribution and supply within the State;
- (c) facilitate intra-State transmission and wheeling of electricity;
- (d) issue licenses to persons seeking to act as transmission licensees, distribution licensees and electricity traders with respect to their operations within the State;
- (e) promote cogeneration and generation of electricity from renewable sources of energy by providing suitable measures for connectivity with the grid and sale of electricity to any person, and also specify, for purchase of electricity from such persons, a percentage of the total consumption of electricity in the area of a distribution licensee;

- (f) adjudicate upon the disputes between the licensees and generating companies and to refer any dispute for arbitration;
- (g) levy fee for the purposes of this Act;
- (h) specify State Grid Code consistent with the Grid Code specified under clause (h) of sub-section (1) of section 79;
- (i) specify or enforce standards with respect to quality, continuity and reliability of service by licensees,
- (j) fix the trading margin in the intra-State trading of electricity, if considered, necessary; and
- (k) discharge such other functions as may be assigned to it under this Act.

(2) The State Commission shall advise the State Government on all or any of the following matters, namely:-

- (i) promotion of competition, efficiency and economy in activities of the electricity industry;
- (ii) promotion of investment in electricity industry;
- (iii) reorganisation and restructuring of electricity industry in the State; and
- (iv) matters concerning generation, transmission, distribution and trading of electricity or any other matter referred to the State Commission by that Government.

(3) The State Commission shall ensure transparency while exercising its powers and discharging its functions.

(4) In discharge of its functions, the State Commission shall be guided by the National Electricity Policy, National Electricity Plan and Tariff Policy published under section 3."

Therefore, the Punjab State Electricity Regulatory Commission in the interest of the consumers of the State has statutory authority to re-determine the tariff for generation.

BE it enacted by the Legislature of the State of Punjab in the Seventy-second Year of the Republic of India as follows:-

1. (1) This Act may be called the Punjab Energy Security, Reform, Termination and Re-determination of Power Tariff Act, 2021. Short title and commencement.

(2) It shall come into force on and with effect from the date of its publication in the Official Gazette.

(3) It shall apply to electricity industry in the State, including, all dealings of any person with or in relation to the electricity industry in the State.

2. (1) In this Act, unless the context otherwise requires,- Definitions

(a) "Agreements" means all Agreements relating to the long-term Power Purchase Agreements entered into by the Punjab Corporation, erstwhile Punjab State Electricity Board, and now succeeded by the Punjab Corporation with Power Generators namely M/s Nabha Power Limited and M/s Talwandi Sabo Power Limited for procurement of power for distribution and supply of electricity in the State;

(b) "Power Generators" means coal based thermal Independent Power Producers set up through case-2 bidding namely M/s Nabha Power Limited and M/s Talwandi Sabo Power Limited and located within the State and supplying power to the Power Corporation, erstwhile Punjab State Electricity Board;

(c) "Punjab Corporation" means the Punjab State Power Corporation Limited;

(d) "Schedule" means the Schedule attached with the Power Purchase Agreements signed with the Power Generators;

(e) "State" means the State of Punjab; and

(f) "State Government" means the Government of the State of Punjab.

(2) Words and expressions used and not defined in this Act, but

defined in the Electricity Act, 2003 (Central Act No. 36 of 2003) shall have the meaning respectively assigned to them in the said Act.

Objectives of
the Act.

3. The following are the objectives of this Act, namely: -

- (a) to enable the State Government to evolve statutory measures for sustained development of electricity sector in the State and to make the electricity available to the consumers in the State at an economical, affordable and on sustained basis;
- (b) to review the status of electricity industry in the State, the long term Agreements for procurement of power entered into by the Punjab Corporation with Power Generators for procurement of power, the terms and conditions of such Agreements, the binding financial obligations assumed by the Punjab Corporation and its cost implications for the duration of the Agreement despite the interest on capital as well as tax liability getting lower considerably with the passage of time, the impact on the cost of procurement of power on the retail supply tariff to the consumers in the State and all matters connected therewith or incidental or ancillary thereto;
- (c) to enable statutory measures to require the review, modification, variation and substitution of the terms and conditions of the Agreements for procurement of power providing for the safeguarding of the consumer interest and balancing the interest of the Power Generator in a reasonable manner to avoid the terms of the Agreement being burdensome, onerous and unsustainable to the Punjab Corporation and thereby the consumer at large;
- (d) to deal with the crisis in fuel availability and exorbitant fuel cost pass through claimed in the consumer tariff because of lopsided terms provided in the Agreements and the exorbitant tariff claims of the Power Generators beyond the optimum and affordable level, adversely affecting the public interest and to take necessary remedial measures;
- (e) to review the various activities of the electricity industry in the State and in India in regard to electricity generation, procurement,

transmission, trading, power exchange dealings, distribution, retail supply, cost to the consumers in the State and to take remedial measures to ensure quality, uninterrupted power supply at affordable rates for use by the consumers; and

- (f) to review the cumulative effect of the nature of arrangements for procurement of electricity made in the past, the policies of the Central Government and State Government, the nature and implications of the long-term power procurement arrangements and Agreements entered into based on such policies, the adverse financial conditions and future exposures to the Punjab Corporation to implement the statutory remedial measures.

4. Notwithstanding anything contained in any other law for the time being in force and any judgment, decree, order and decision of any Court, Tribunal or Authority, all the relevant clauses impacting tariff directly or indirectly as well as Schedule 7: Tariff and Schedule 11: Quoted Tariff, of the Agreements shall stand terminated.

Termination of
Tariff clauses
of the
Agreements.

5. Notwithstanding anything contained in any other law for the time being in force and any judgment, decree, order and decision of any Court, Tribunal or Authority, the Agreements of Power Generators with Punjab Corporation shall stand referred to the Punjab State Electricity Regulatory Commission for re-determination of tariff including both Capacity and Energy Charges and all matters that impact tariff directly or indirectly including any provision in Schedule 7: Tariff and Schedule 11: Quoted tariff of the Agreements, after considering all the relevant cost parameters involved in generation of power:

Re-
determination
of Tariff.

Provided that to ensure continuity in the electricity supply and energy security of the State, the Punjab State Electricity Regulatory Commission (PSERC) shall also determine a temporary tariff rate to be made applicable in the Interregnum period till the tariff is finally re-determined by the said Commission.

6. (1) The State Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

Power to make
rules.

(2) Every rule made under this section by the State Government, shall be laid, as soon as may be, after it is made, before the House of the State

Legislature while it is in session, for a total period of ten days, which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session in which it is so laid or the successive sessions as aforesaid, the House agrees in making any modification in the rule or the House agrees that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done or omitted to be done under that rule.

Act to have
overriding
effect.

7. (1) The provisions of this Act and the rules made thereunder or any notification or order or directions issued under this Act or the rules shall have effect and be enforced, notwithstanding anything contained in any other State law for the time being in force or any rules or regulations made thereunder or any instrument having effect by virtue thereof or the Agreements or arrangement for sale and purchase of power between the Power Generator and the Punjab Corporation.

(2) The obligation of the Punjab Corporation in regard to the procurement of power at the tariff and terms and conditions contained in the Power Purchase Agreement or arrangement entered into with the Power Generator including in terms of any regulations or orders passed by the Appropriate Commission regulating the Agreement or arrangement shall be read consistent with the provisions of this Act and the rules and orders made thereunder.

Protection of
actions taken in
good faith.

8. No suit, prosecution or other legal proceedings shall lie against the State Government, nominated or designated agency or any person acting on their behalf, in respect of anything which is done or intended to be done in good faith under this Act.

Power to
remove
difficulties.

9. (1) If any difficulty arises in giving effect to the provisions of this Act, the State Government may, by an order, in writing published in the Official Gazette, make such provision not inconsistent with the provisions of this Act, as may appear to be necessary for removing the difficulty:

Provided that no such order shall be made under this section after the expiry of a period of two years from the date of commencement of this Act.

(2) Every order made under this section shall, be laid, as soon as may be, after it is made, before the State Legislature, while it is in session for a total period of ten days.

STATEMENT OF OBJECTS AND REASONS

The bill is introduced in pursuance of Article 107 of the Constitution of India to provide affordable, economical electricity to the consumers in the State on sustainable basis, to reduce the cost of procurement of the power on the retail supply, to take remedial measure to ensure quality, uninterrupted power supply at cheap rates to be used by the consumers and to abolish the adverse financial condition and future exposure to the Punjab State Power Corporation Limited, Patiala.

CHARANJIT SINGH CHANNI,
Chief Minister, Punjab.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Section 6 of the Punjab Energy Security, Reform, Terminations and Re-determination of Power Tariff Bill, 2021 empowers the State Government to make rules to carry out the purposes of this Act. The powers sought are necessary for the proper implementation of the provision of the Act and are normal in nature.

CHANDIGARH
THE 11TH NOVEMBER, 2021

SURINDER PAL,
SECRETARY.